IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3141 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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KISMAT GYMKHANA PVT LTD

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 3141 of 2001

MR JAGDISH H MEHTA for Petitioner No. 1-2

MS BR GAJJAR, AGP for Respondents

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 07/08/2001

ORAL JUDGEMENT

1. This matter is already admitted and with the consent of both the parties, the matter is taken up for final disposal.

2. Kismat Gymkhana Pvt.Ltd - petitioner No.1 and

Jitendrabhai Chandubhai Amin - petitioner No.2 have filed this petition under Articles 14 and 226 of the Constitution of India praying for a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction declaring that the provisions of the Bombay Prevention of Gambling Act are not applicable while paying the game of 13 cards known as "Rummy" in the building of Kismat Gymkhana Pvt.Ltd.

3. The facts giving rise to this petition are as under:-

3.1 The petitioner-Gymkhana is a registered company under the provisions of the Companies Act 1956. The petitioners state that the petitioners Gymkhana is the registered Gymkhana and has its own constitution inter alia provides for the running of the Gymkhana to the persons who are the members of the Gymkhana. The object of the petitioners Gymkhana provides for arranging cultural programmes, musical programmes, for opening of libraries, for playing outdoor and indoor games, playing cards, chess, rummy etc.

3.2 It has been stated that the various facilities are being provided by the first petitioner for recreation, sports, billiard rooms, libraries, reading rooms, refreshment rooms, entertainment rooms etc. to the members including various games of skill. It has been further stated that the members of the Gymkhana are playing the game of 13 cards known as the game of "Rummy" and this is the game which is not a game of chance but it is a game of skill.

3.3 The learned advocate for the petitioner has invited my attention to the judgment of the Hon'ble Supreme Court in the case of State of Andhra Pradesh Vs. Satyanarayan and Others reported in AIR 1968 SC 825 where the Hon'ble Apex Court has held that the game of "Rummy" is mainly a game of skill and it is not a game of chance and therefore the same is outside the purview of the word "Gambling" for the purpose of the Gambling Act. He has also relied upon the provisions of the Gambling Act in this behalf.

4. On behalf of the respondent, Shri Jitendrasinh Gohil, Police Inspector of Padra Police Station, has filed affidavit dated 5th July, 2001 in this behalf. He has admitted that the game of "Rummy" is not a game of chance. However, it has been stated that when there is an information or apprehension or a doubt raised that to the game "Rummy" is being played either with coins or

with some materialise object then the police authority can obviously visit/raid such place in accordance with law. It has been further stated that the place where the petitioner's club is running are paradise garden restaurant/hotel is being run by one of the Glamour/Buttagour Sikander Ismail Malek, this reveals from the certificate which has been issued by Padra Nagar Panchayat. The said person is gambler/butking agent whom several cases of gambling have been registered against him.

5. The petitioner has also filed affidavit-in-rejoinder dated 16th July, 2001, in which he has tried to deny the said contention in this behalf. Learned counsel for the petitioner has also relied upon the order of this Court dated 12.10.1999 passed in Special Civil Application No.7161 of 1999.

5.1 Learned advocate for the petitioner has also invited my attention to the decision dated 20.11.1997 passed by this Court (Coram: S.D.Dave, J.) in Special Civil Application No.5474 of 1997 taking a view that game of "Rummy" does not mean a gambling while enforcing the provisions of the Gambling Act 1987.

6. In view of the aforesaid peculiar facts and circumstances of the case, in my view, if I direct the respondents shall not interfere with the game of Rummy being played by the members of petitioner No.1 Club in the Club premises. These orders shall never preclude the concerned respondent or the officers working under them for taking appropriate action under appropriate provisions of the relevant law and the rules, if it is found that the member or the members of the Club are playing any other game which could be said to be objectionable or prohibited under the law or the rules.

7. In view of the same, the petition is disposed of. Rule is made absolute to the above said extent. No order as to costs. Direct service is permitted.

(K.M. Mehta, J.)

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